



Order Filed on January 31, 2023  
by Clerk  
U.S. Bankruptcy Court  
District of New Jersey

<b>UNITED STATES BANKRUPTCY COURT DISTRICT OF NEW JERSEY</b>	
Caption in Compliance with D.N.J. LBR 9004-1(b)	
<b>TRIF &amp; MODUGNO, LLC</b> 89 Headquarters Plaza Suite 1201 Morristown, New Jersey 07970 lmodugno@tm-firm.com Telephone: (973) 547-3611 <i>Counsel to Vollers Excavating and Construction, Inc.</i>	
In re:	
ASSUNCAO BROS., INC.,	
Debtor.	

Chapter 11 (Subchapter V)

Case No. 22-16159-CMG

Judge: Hon. Christine M. Gravelle

**ORDER (I) ENFORCING SALE ORDER AGAINST EXTECH BUILDING  
MATERIALS, INC. d/b/a LIBERTY BUILDING PRODUCTS ("LIBERTY"), (II)  
DETERMINING THAT LIBERTY'S CLAIM AGAINST CONTI ENTERPRISES, INC.'S  
SURETY VIOLATES THE SALE ORDER, (III) DIRECTING LIBERTY TO  
WITHDRAW THE CLAIM AGAINST THE SURETY, AND (IV) GRANTING  
RELATED RELIEF**

The relief set forth on the following pages, numbered two (2) though three (3) is hereby

**ORDERED.**

DATE:

**DATED: January 31, 2023**

  
\_\_\_\_\_  
Honorable Christine M. Gravelle  
United States Bankruptcy Judge

Page 2

DEBTOR: Assuncao Brothers, Inc.

CASE NO: 22-16159-CMG

CAPTION: **Order (I) Enforcing Sale Order Against Extech Building Materials, Inc. d/b/a Liberty Building Products (“Liberty”), (II) Determining that Liberty’s Claim Against Conti Enterprises, Inc.’s Surety Violates the Sale Order, (III) Directing Liberty to Withdraw the Claim against the Surety, and (IV) Granting Related Relief**

**THIS MATTER** having been brought before the Court upon the motion (the “Motion”)<sup>1</sup> of Vollers Excavating and Construction, Inc. (“Vollers”), the purchaser of substantially all the assets of Assuncao Brothers, Inc. (“ABI” or the “Debtor”), by and through Vollers’ counsel, for entry of an order (i) enforcing the Sale Order against Extech Building Materials, Inc. d/b/a Liberty Building Products (“Liberty”), an ABI supplier on a Subcontract between ABI and Conti Enterprises, Inc. (“Conti”) (ii) determining that Liberty’s claim against Conti’s surety violates the Sale Order, (iii) requiring Liberty to withdraw its claim against Conti’s surety, and (iv) granting related relief; and the Court having jurisdiction over the Debtor’s Subchapter V Case and the Motion under 28 U.S.C. §§ 1334(b) and 157, and the Standing Order of Reference to the Bankruptcy Court Under Title 11 of the United States District Court for the District of New Jersey, dated September 18, 2012 (Simandle, C.J.); and the Court having found and determined that the relief requested in the Motion and provided for herein is proper, lawful, necessary and appropriate; and after consideration of any opposition to the Motion; and for good cause shown, it is hereby

**ORDERED** that the Motion is granted; and it is further

**ORDERED** that the Sale Order is enforceable and binding against Liberty; and it is further

**ORDERED** that Liberty’s claim against Conti’s surety violated the Sale Order; and it is further

**ORDERED** that, within 10 days of the date hereof, Liberty shall withdraw its claim against Conti’s surety; and it is further

---

<sup>1</sup> Capitalized terms not otherwise defined shall have the same meaning as set forth in the Motion.

Page 3

DEBTOR: Assuncao Brothers, Inc.

CASE NO: 22-16159-CMG

CAPTION: **Order (I) Enforcing Sale Order Against Extech Building Materials, Inc. d/b/a Liberty Building Products (“Liberty”), (II) Determining that Liberty’s Claim Against Conti Enterprises, Inc.’s Surety Violates the Sale Order, (III) Directing Liberty to Withdraw the Claim against the Surety, and (IV) Granting Related Relief**

**ORDERED** that, if Liberty does not withdraw its claim against Conti’s surety as set forth herein, Conti’s surety shall be authorized to rely on this Order for the purpose of denying the claim in its entirety; and it is further

**ORDERED** that Extech shall pay \$1,000 to Triff & Mougno, LLC to offset attorney fees incurred by bringing the motion to enforce the sale order.

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

In re:  
Assuncao Bros., Inc.  
Debtor

Case No. 22-16159-CMG  
Chapter 11

## CERTIFICATE OF NOTICE

District/off: 0312-3  
Date Rcvd: Jan 31, 2023

User: admin  
Form ID: pdf903

Page 1 of 3  
Total Noticed: 1

The following symbols are used throughout this certificate:

Symbol	Definition
+	Addresses marked '+' were corrected by inserting the ZIP, adding the last four digits to complete the zip +4, or replacing an incorrect ZIP. USPS regulations require that automation-compatible mail display the correct ZIP.

Notice by first class mail was sent to the following persons/entities by the Bankruptcy Noticing Center on Feb 02, 2023:

Recip ID	Recipient Name and Address
db	+ Assuncao Bros., Inc., 29 Wood Avenue, Edison, NJ 08820-3503

TOTAL: 1

Notice by electronic transmission was sent to the following persons/entities by the Bankruptcy Noticing Center.  
Electronic transmission includes sending notices via email (Email/text and Email/PDF), and electronic data interchange (EDI).

NONE

## BYPASSED RECIPIENTS

The following addresses were not sent this bankruptcy notice due to an undeliverable address, \*duplicate of an address listed above, \*P duplicate of a preferred address, or ## out of date forwarding orders with USPS.

NONE

## NOTICE CERTIFICATION

I, Gustava Winters, declare under the penalty of perjury that I have sent the attached document to the above listed entities in the manner shown, and prepared the Certificate of Notice and that it is true and correct to the best of my information and belief.

Meeting of Creditor Notices only (Official Form 309): Pursuant to Fed .R. Bank. P.2002(a)(1), a notice containing the complete Social Security Number (SSN) of the debtor(s) was furnished to all parties listed. This official court copy contains the redacted SSN as required by the bankruptcy rules and the Judiciary's privacy policies.

Date: Feb 02, 2023

Signature: /s/Gustava Winters

## CM/ECF NOTICE OF ELECTRONIC FILING

The following persons/entities were sent notice through the court's CM/ECF electronic mail (Email) system on January 31, 2023 at the address(es) listed below:

Name	Email Address
Allen J Barkin	on behalf of Creditor Nobel Equipment & Supplies Inc. abarkin@sbmesq.com, sandyr@sbmesq.com
Charles Allen Yuen	on behalf of Creditor Wiggins Plastics Inc. cyuen@cyuen-law.com
Charles Allen Yuen	on behalf of Creditor Knickerbocker Bed Company cyuen@cyuen-law.com
Curtis M Plaza	on behalf of Creditor Manasquan Bank cplaza@riker.com sdechoyan@riker.com
Douglas G. Leney	on behalf of Interested Party Lisa Assuncao dleney@archerlaw.com ahuber@archerlaw.com
Douglas G. Leney	on behalf of Interested Party Martin Assuncao dleney@archerlaw.com ahuber@archerlaw.com

District/off: 0312-3

User: admin

Page 2 of 3

Date Rcvd: Jan 31, 2023

Form ID: pdf903

Total Noticed: 1

Edward H. O'Hare

on behalf of Creditor HEAVY AND GENERAL LABORERS' FUNDS OF NEW JERSEY eohare@zazzali-law.com

Eric R. Perkins

on behalf of Creditor Black Rock Enterprises LLC eperkins@becker.legal  
tcolombini@becker.legal;mambrose@becker.legal;jlawrence@becker.legal

Eric R. Perkins

on behalf of Creditor Horizon Blue Cross Blue Shield of New Jersey eperkins@becker.legal  
tcolombini@becker.legal;mambrose@becker.legal;jlawrence@becker.legal

Fleming Ware

on behalf of Creditor Komatsu Financial Limited Partnership fware@vedderprice.com

Gary D. Bressler

on behalf of Creditor NGM Insurance Company gbressler@mdmc-law.com  
scarney@mdmc-law.com;dprimack@mdmc-law.com;bkleban@mdmc-law.com

John R. Morton, Jr.

on behalf of Creditor AmeriCredit Financial Services Inc. dba GM Financial ecfmail@mortoncraig.com,  
mortoncraigecf@gmail.com

John R. Morton, Jr.

on behalf of Creditor Santander Consumer USA Inc. dba Chrysler Capital ecfmail@mortoncraig.com mortoncraigecf@gmail.com

Jonathan J. Lerner

on behalf of Interested Party Extech Building Materials Inc. JLerner@starrgern.com, LCrogier@starrgern.com

Joseph A. Caneco

on behalf of Debtor Assuncao Bros. Inc. jcaneco@foxrothschild.com

Joseph J. DiPasquale

on behalf of Other Prof. KCP Advisory Group LLC Jdipasquale@foxrothschild.com,  
cbrown@foxrothschild.com;msteen@foxrothschild.com

Joseph J. DiPasquale

on behalf of Debtor Assuncao Bros. Inc. Jdipasquale@foxrothschild.com,  
cbrown@foxrothschild.com;msteen@foxrothschild.com

Joshua H. Raymond

on behalf of Creditor Middlesex County Utilities Authority jraymond@msbnj.com

Justin Baumgartner

on behalf of Creditor Horizon Blue Cross Blue Shield of New Jersey jbaumgartner@becker.legal mambrose@becker.legal

Justin Baumgartner

on behalf of Creditor Black Rock Enterprises LLC jbaumgartner@becker.legal mambrose@becker.legal

Louis A. Modugno

on behalf of Other Prof. Vollers Excavating and Contractors Inc. lmodugno@tm-firm.com

Margaret McGee

on behalf of U.S. Trustee U.S. Trustee maggie.mcgee@usdoj.gov

Michael A. Baselice

on behalf of Creditor IUOE Local 825 Benefit Funds mbaselice@decotiislaw.com

Michael R. Herz

on behalf of Debtor Assuncao Bros. Inc. mherz@foxrothschild.com, cbrown@foxrothschild.com

Philip William Allogramento

on behalf of Creditor County of Essex pallogramento@connellfoley.com mcaggiano@connellfoley.com

Richard M. Schlaifer

on behalf of Creditor J.M. Ahle Co. Inc. rschlaifer@earpcohn.com, vbromley@earpcohn.com

Ryan Richard Sweeney

on behalf of Creditor Iron Workers District Council Philadelphia and Vicinity Benefit Funds rsweeney@cjtlaw.org

Ryan Richard Sweeney

on behalf of Creditor Iron Workers Local 11 Benefit Funds rsweeney@cjtlaw.org

Ryan Richard Sweeney

on behalf of Creditor Iron Workers Local 399 Benefit Funds rsweeney@cjtlaw.org

Scott Aaron Levin

on behalf of Creditor NGM Insurance Company slevin@mdmc-law.com

Scott S. Rever

srever@wjslaw.com

Scott S. Rever

on behalf of Trustee Scott S. Rever srever@genovaburns.com

District/off: 0312-3

User: admin

Page 3 of 3

Date Rcvd: Jan 31, 2023

Form ID: pdf903

Total Noticed: 1

srever@ecf.inforuptcy.com;dmendez@genovaburns.com;dmendez@ecf.inforuptcy.com

Seth Ptasiewicz

on behalf of Creditor Northeast Carpenters Benefit Funds sptasiewicz@krollfirm.com

Timothy P. Neumann

on behalf of Creditor Ralph Clayton & Sons LLC a/k/a Ralph Clayton & Sons and/or Clayton Concrete  
timothy.neumann25@gmail.com, btassillo@aol.com;geoff.neumann@bnfsbankruptcy.com;geoff.neumann@gmail.com

U.S. Trustee

USTPRegion03.NE.ECF@usdoj.gov

Vipin Varghese

on behalf of Creditor IUOE Local 825 Benefit Funds vvarghese@decotiislaw.com  
kcaufield@decotiislaw.com;rmcgowan@decotiislaw.com;mdiaz@decotiislaw.com

Virginia T. Shea

on behalf of Creditor NGM Insurance Company vshea@mdmc-law.com gbressler@mdmc-law.com

William E. Craig

on behalf of Creditor AmeriCredit Financial Services Inc. dba GM Financial ecfmail@mortoncraig.com,  
mortoncraigecf@gmail.com

TOTAL: 38